

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:23-CV-897

IN RE:)
CAMP LEJEUNE WATER LITIGATION)
)
This Pleading Relates to:)
ALL CASES)

**PLAINTIFFS' LEADERSHIP GROUP'S MOTION TO COMPEL DOCUMENT
PRODUCTION IN RESPONSE TO FIRST SET OF REQUEST FOR PRODUCTION**

Pursuant to Rule 37(a)(3)(B) of the Federal Rules of Civil Procedure, Local Civil Rule 7.1(c)(1), and United States Magistrate Judge Robert B. Jones Jr.'s Amended Order entered on November 21, 2023, the Plaintiffs' Leadership Group ("PLG") hereby moves the Court for an order compelling Defendant to (a) produce all documents responsive to the PLG's First Request for Production of Documents (the "First Request")¹ by December 29, 2023, including the files identified on an index created by the Chief Records Officer of the Agency for Toxic Substances and Disease Registry ("ATSDR") and disclosed during a deposition on December 5, 2023, (b) state objections, if any, to all future discovery requests within 15 days of service of the request, and (c) provide specific dates by which documents will be produced in response to all future discovery requests. In support of this motion, the PLG states as follows:

1. On September 30, 2023, the PLG served the First Request. The First Request sought basic information concerning muster rolls, housing documents, ATSDR documents, written and recorded statements, and other eminently predictable requests.

¹ For purposes of correcting a few typographical errors, the PLG served a Corrected First Set of Requests for Production on October 4, 2023. The said corrections were non-substantive. Hence, the present motion will refer simply to the First Requests.

2. Defendant's Response to the PLG's First Request for Production (the "Response") was served on October 30, 2023. The Response consisted of rote, boilerplate objections to every request for production. Most troubling, however, Defendant's production of responsive documents has been agonizingly slow, and Defendant has failed to produce several categories of documents. In most instances, Defendant does not contest the clear discoverability of the PLG's requested documents. To the contrary, Defendant simply has not produced the requested documents, and Defendant has repeatedly promised to produce discoverable documents at some uncertain future date before "the completion of fact discovery."

3. Defendant's slow document production is inexcusable. For instance, during the deposition of the ATSDR's Chief Records Officer, namely James D. Baker, Jr. ("Mr. Baker"), on December 5, 2023, the PLG was provided for the first time with an index of 131 files possessed by the ATSDR and related to Camp Lejeune. Despite being conveniently indexed, many of the files on that index have not been produced. Moreover, Mr. Baker revealed that two boxes of discoverable documents sat in his office unattended, and Mr. Baker admitted that he had notified his superiors about the existence of these two boxes of documents about *one month* before his deposition. Yet the files have not been produced.

4. The PLG brings this motion on the grounds that, in violation of Fed. R. Civ. P. 34 and this Court's precedents, Defendant's Response failed to set forth a reasonable and definite date for the production of documents. In fact, Defendant's document production has been dilatory, and further delays in the production of documents will prejudice the PLG's ability to participate in discovery and depositions and prepare for trial. The Court should therefore order Defendant to produce all documents responsive to the First Request by December 29, 2023. Further, to prevent similar delays in the future, the Court should order that Defendant state objections (if any) to all

future discovery requests within 15 days of service of the request, and that Defendant provide specific dates by which documents will be produced in response to all future discovery requests.

5. As required by Local Civil Rule 7.1, this motion is accompanied by a supporting Memorandum of Law.

6. The PLG and Defendant have participated in multiple meet-and-confer conferences concerning the Response, and the parties have exchanged several letters concerning Defendant's deficient Response. Undersigned counsel certify that there has been a good faith effort to resolve this discovery dispute prior to the filing of the present motion.

7. The parties addressed with the Court most of the matters raised in the present motion during several Status Conferences. During the Status Conference on December 5, 2023, Magistrate Judge Jones indicated that the present motion was procedurally proper under the terms of the Amended Order entered on November 21, 2023. [D.E. 55]

WHEREFORE, the PLG respectfully prays the Court as follows:

1. That Defendant be compelled to produce all documents responsive to the First Request by December 29, 2023, including the documents identified on the index prepared by the ATSDR's Chief Records Officer, namely Mr. Baker;

2. That Defendant state objections, if any, to all future discovery requests within 15 days of service of that request;

3. That Defendant provide specific dates by which documents will be produced in response to all future discovery requests; and

2. For such other and further relief as the Court deems just and proper.

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DATED this 14th day of December, 2023.

/s/ J. Edward Bell, III

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CERTIFICATE OF SERVICE

I, J. Edward Bell, III, hereby certify that the foregoing document was electronically filed on the Court's CM/ECF system on this date, and that all counsel of record will be served with notice of the said filing via the CM/ECF system.

This the 14th day of December, 2023.

/s/ J. Edward Bell, III

J. Edward Bell, III